



PUBLIC NOTICE

Federal Communications Commission
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**CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON PETITION
FOR DECLARATORY RULING FROM A COALITION OF MOBILE ENGAGEMENT
PROVIDERS**

CG Docket No. 02-278

Comment Date: December 2, 2013
Reply Comment Date: December 17, 2013

With this Public Notice, we seek comment on a Petition for Declaratory Ruling filed by a Coalition of Mobile Engagement Providers (Coalition)¹ seeking clarification that the revised Telephone Consumer Protection Act (TCPA)² rules that were effective October 16, 2013,³ do not “nullify those written express consents already provided by consumers before that date.”⁴ These revised rules require prior express written consent that meets specified standards for certain autodialed or prerecorded telemarketing calls.⁵ The Coalition asks specifically that the Commission clarify that the revised forms of written consent, which became effective October 16, 2013, are applicable only to new customers and therefore mobile marketers need not take additional steps to obtain the revised forms of written consent from existing customers who have already provided express written consent under the previous rules that does not meet the standards of the revised rules.⁶ The Coalition thus asks the Commission to clarify that existing customers need not take additional steps to continue receiving the requested communications.⁷

¹ See *Coalition of Mobile Engagement Providers*, Petition for Declaratory Ruling, CG Docket No. 02-278 (filed Oct. 17, 2013) (*Petition*). The Coalition “consists of communications infrastructure, technology, and professional services companies that work with brands, retailers, banks, online services, and companies of all types to engage with and interact with their customers using mobile messaging and other channels for communication with consumers via mobile phones.” *Petition* at 2.

² Codified as 47 U.S.C. § 227.

³ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 27 FCC Rcd 1830 (2012) (*2012 TCPA Order*).

⁴ *Petition* at 1.

⁵ See 47 C.F.R. § 64.1200; *2012 TCPA Order* (revising the Commission’s rules to require prior express written consent for all autodialed or prerecorded telemarketing calls to wireless numbers and residential lines, and maintaining flexibility in the form of consent needed for purely informational calls).

⁶ *Petition* at 1-2.

⁷ *Id.* at 1.

Pursuant to sections 1.415 and 1.419 of the Commission's rules,⁸ interested parties may file comments and reply comments on or before the respective dates indicated on the first page of this Notice. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁹ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed

⁸ 47 C.F.R. §§ 1.415, 1.419.

⁹ 47 C.F.R. §§ 1.1200 *et seq.*

consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

FOR FURTHER INFORMATION CONTACT: Kristi Lemoine, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 202-418-2467, and kristi.lemoine@fcc.gov.

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